

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action dated May 19, 2005. This Amendment is submitted within the period for response extending to August 19, 2005.

The status of the claims is summarized below.

5 Claims 1 and 3 are currently amended.

 Claim 2 is cancelled.

 Claims 1 and 3-20 remain pending in the application after entry of this Amendment.

10 **Allowable Subject Matter**

 The Applicants acknowledge the Office's indication that claims 10-20 are allowable. Additionally, the Applicants acknowledge the Office's indication that claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any
15 intervening claims.

Rejections under 35 U.S.C. § 102

 Claims 1 and 4 were rejected under 35 U.S.C. §102(b) as being anticipated by Rohr et al. ("Rohr" hereafter) (U.S. Patent No. 6,069,695). These rejections are traversed.

20 Claim 1 has been amended to incorporate the features of claim 2, which has been objected to by the Office. More specifically, claim 1 has been amended to recite the moveable members as being confinement rings within a plasma etching chamber. In agreement with the Office's previous indication, the Applicants submit that collecting optical emission data from a plasma through an aperture defined by moveable members,
25 wherein the moveable member are confinement rings within a plasma etching chamber, is not taught or suggested by Rohr.

Therefore, the Applicants submit that amended claim 1 is patentable over the cited art of record. Additionally, because claim 4 depends from claim 1, claim 4 is patentable over the cited art of record for at least the same reasons provided for claim 1. In view of the foregoing, the Office is requested to withdraw the rejections of claims 1 and 4 under
5 35 U.S.C. 102.

Rejections under 35 U.S.C. § 103

Claims 1 and 4-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kaji et al. ("Kaji" hereafter) (U.S. Patent Application Publication No.
10 2004/0045933) in view of Rohr. These rejections are traversed.

As previously mentioned, claim 1 has been amended to incorporate the features of claim 2, which has been objected to by the Office. Therefore, the Applicants submit that amended claim 1 is patentable over the cited art of record. Because each of claims 4-9 ultimately depend from claim 1, each of claims 4-9 is patentable over the cited art of
15 record for at least the same reasons as claim 1. In view of the foregoing, the Office is requested to withdraw the rejections of claims 1 and 4-9 under 35 U.S.C. 103.

The Applicants submit that all of the pending claims are in condition for allowance. Therefore, a Notice of Allowance is requested. If the Examiner has any questions concerning the present Amendment, the Examiner is requested to contact the undersigned at (408) 774-6914. Also, if any additional fees are due in connection with filing this Amendment, the Commissioner is authorized to charge Deposit Account No. 50-0805 (Order No. LAM2P431). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
MARTINE PENILLA GENCARELLA, LLP



Kenneth D. Wright
Reg. No. 53,795

Martine Penilla Gencarella, LLP
710 Lakeway Drive, Suite 200
Sunnyvale, California 94086
Tel: (408) 749-6900
Customer Number 25920